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NOTICE OF ALLOWANCE AND FEE(S) DUE

2292

7590

10/18/2010

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

BAUM, RONALD

ART UNIT

PAPER NUMBER

2439

DATE MAILED: 10/18/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,970	08/29/2006	Tsuyoshi Nishioka	0054-0323PUS1	5666

TITLE OF INVENTION: QUANTUM CRYPTOGRAPHIC COMMUNICATION APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	01/18/2011

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

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B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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2292 7590 10/18/2010

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(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,970	08/29/2006	Tsuyoshi Nishioka	0054-0323PU/S1	5666

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	01/18/2011

EXAMINER	ART UNIT	CLASS-SUBCLASS
BAUM, RONALD	2439	380-255000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
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- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date _____

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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			ART UNIT	PAPER NUMBER

2439

DATE MAILED: 10/18/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 911 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 911 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/590,970

Applicant(s)

NISHIOKA ET AL.

Examiner

RONALD BAUM

Art Unit

2439

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 26 June 2010.
2. ☒ The allowed claim(s) is/are 6-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Examiner's Statement of Reasons for Allowance

1. Claims 6-10 are allowed over prior art.
2. This action is in reply to applicant's correspondence of 26 June 2010.
3. The following is an examiner's statement of reasons for the indication of allowable claimed subject matter.
4. As per claim 6 generally, prior art of record HASEGAWA, T., et al, "An Experimental Realization of Quantum Cryptosystem", IEICE TRANSACTIONS on Fundamentals of Electronics, Communications and Computer Sciences, Vol.E85-A, No. 1, 01 January, 2002 (01.01.02), pages 149 to 157 ("Hasegawa"), fails to teach alone, or in combination, other than via hindsight, at the time of the invention, the features as discussed and remarked upon in the response of 26 June 2010 to office action of 27 April 2010.

Specifically, (as per claim 6, for example) prior art dealing with QKD aspects of key information communications between the source and destination cryptographic apparatus – or more succinctly as associated with support of a *quantum cryptographic communication apparatus* – insofar as quantum probability information associated with a key (i.e., irrespective of the key content per se) as communicated across the source/destination communications path (i.e., QKD based shared key distribution, insofar as reconciliation of Gaussian key elements via extracting common information out of any shared variables (as applied to the special case of Gaussian key elements), so as to generate/distribute the key as a function of the shared extracted Gaussian key elements – irrespective of leakage of information, and the details of how the

information involved in generating the key is transferred between the source and destination;

Assche, G.V., et al, 'Reconciliation of a Quantum-Distributed Gaussian Key', IEEE TRANSACTIONS ON INFORMATION THEORY, VOL. 50, NO. 2, FEBRUARY 2004, pp. 394-400,

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.104.2483&rep=rep1&type=pdf>) is known per se.

Nowhere in the prior art is found collectively the *italicized* claim elements (i.e., the aspects of in a *quantum cryptographic communication apparatus* (1) in the *quantum receiver apparatus* element, whereas *a bypass optical path* with a phase modulator directed towards the *phase modulating (exclusively)* of the *reference optical pulse* received *subsequent* to the *time difference twin photon pulses*, insofar as the pulses *are reciprocated* via the quantum path; and (2) in the *quantum transmitter apparatus* element, whereas *a beam attenuating (means) attenuating the optical pulse inclusive of less than two photons (in the pulse)*), *at the time of the invention*; serving to patently distinguish the invention from said prior art;

“A *quantum cryptographic communication apparatus*, comprising:

- a quantum communication path
 - for transferring a quantum;
- a quantum transmitter apparatus
 - provided on a transmission side of
 - the quantum transfer path;
- a quantum receiver apparatus
 - provided on a reception side of
 - the quantum transfer path; and
- a control signal communication path

connecting the quantum transmitter apparatus with
the quantum receiver apparatus,
the control signal communication path
being used for communicating a control signal
containing a synchronization signal between
the quantum transmitter apparatus and
the quantum receiver apparatus, and in that:
a quantum receiver apparatus comprises:
a light source serving as a quantum source;
an optical path loop including
a multiplexing/interfering means
for generating time difference twin photon pulses
composed of both
a signal optical pulse and
a reference optical pulse from
a photon pulse outputted from the light
source and
for multiplexing and causing interference between
the signal optical pulse corresponding to
a retrograde quantum and
the reference optical pulse;
a bypass optical path including

a phase modulator

which is provided at a port

connected to the quantum communication path, and

phase-modulates

only the reference optical pulse

received after the time difference twin photon pulses

are reciprocated

via the quantum communication path between

the *quantum transmitter* apparatus and

the *quantum receiver* apparatus; and

a photon detector

for monitoring interference light passed through the optical path loop;

the *quantum transmitter apparatus* comprises:

a polarized wave rotating means for

rotating polarization planes of the twin photon pulses

at a right angle in a non-reciprocal manner,

the twin photon pulses having reached thereto

from the quantum receiver apparatus

via the quantum communication path;

a phase modulator for

phase-modulating a signal optical pulse

passes through the polarized wave rotating means and

returning the signal optical pulse
to the quantum receiver apparatus
through the quantum communication path
so as to return the phase-modulated signal optical pulse
to the quantum receiver apparatus; and
a beam attenuating means for
attenuating the signal optical pulse
such that the signal optical pulse includes
less than two photons in the pulse.”.

5. Dependent claims 7-10 are allowable by virtue of their dependencies.

Conclusion

6. Any inquiry concerning this communication or earlier communications from examiner should be directed to Ronald Baum, whose telephone number is (571) 272-3861, and whose unofficial Fax number is (571) 273-3861 and unofficial email is Ronald.baum@uspto.gov. The examiner can normally be reached Monday through Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad, can be reached at (571) 272-7884. The Fax number for the organization where this application is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. For more information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Baum

Patent Examiner

/R. B./

Examiner, Art Unit 2439

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2439